

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VHT, INC., a Delaware corporation,  
Plaintiffs,

v.

ZILLOW GROUP, INC., a Washington  
corporation; and ZILLOW, INC., a  
Washington corporation,  
Defendant(s).

Case No. 2:15-cv-01096-JLR

NOTICE OF SUPPLEMENTAL  
AUTHORITY

Defendants Zillow Group, Inc. and Zillow, Inc. (collectively “Zillow”) respectfully bring to the Court’s attention a recently decided Ninth Circuit opinion, *Perfect 10, Inc. v. Giganews, Inc.*, No. 15-55523 (9th Cir. Jan. 23, 2017), which is attached as Exhibit 1. The opinion confirms that direct copyright infringement requires “volitional conduct by the defendant,” Slip. Op. at 14, and affirms the district court’s dismissal of all direct copyright claims based on a failure to show volitional conduct where the alleged infringements resulted from the acts of the users of Defendants’ computer system and not from the acts of Defendants themselves, *id.* at 18-20.

The case also holds that there can be no contributory infringement where “there were no simple measures available” to identify and take down allegedly infringing works. *Id.* at 24. It also affirms the dismissal of claims of vicarious infringement because Plaintiff did not “provide evidence that customers were drawn to Giganews’s services because of the infringing Perfect 10 ma-

1 terial at issue,” *id.* at 29, and states that evidence that users were drawn to Giganews to “access  
2 infringing material generally” is insufficient, *id.* at 30.

3 This guidance from the Ninth Circuit clarifies the law that applies to many of the Plain-  
4 tiff’s copyright claims and may be helpful in formulating jury instructions and for other purposes.  
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8 Dated: January 23, 2017.

Respectfully submitted,

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10 By: /s/ Jenna G. Farleigh

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20 *Attorneys for Zillow Group, Inc. and*  
21 *Zillow, Inc.*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jenna G. Farleigh